SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP 333 West Wacker Drive, Suite 2100 Chicago, Illinois 60606 (312) 407-0700 John Wm. Butler, Jr. Albert L. Hogan, III Ron E. Meisler

BAKER & MCKENZIE LLP 815 Connecticut Avenue, N.W. Washington, D.C. 20006-4078 (202) 452-7080 Mary B. Hevener

- and -

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP Four Times Square New York, New York 10036 (212) 735-3000 Kayalyn A. Marafioti (KM 9632) Thomas J. Matz (TM 5986)

UNITED STATES DISTRICT COURT

Attorneys for Delphi Corporation, Delphi Automotive Systems LLC, and Delphi Automotive Systems Services LLC, Respondents

# SOUTHERN DISTRICT OF NEW YORK 08 Civ. 04487 (PKC) In re Bankr. Case No. 05-44481 (RDD) DELPHI CORPORATION, et. al., (Jointly Administered) Debtors. -----x DELPHI CORPORATION, DELPHI **Adversary Proceeding** No. 08-01038 AUTOMOTIVE SYSTEMS LLC, AND DELPHI AUTOMOTIVE SYSTEMS SERVICES LLC, Plaintiffs, - against -UNITED STATES OF AMERICA,

Defendant.

----x

DECLARATION OF EVAN GERSHBEIN IN SUPPORT OF MEMORANDUM OF LAW IN SUPPORT OF RESPONDENTS' OPPOSITION TO **GOVERNMENT'S MOTION TO WITHDRAW REFERENCE** 

## I, Evan Gershbein, declare:

- 1. Respondents Delphi Corporation, Delphi Automotive Systems LLC, and Delphi Automotive Systems LLC ("Plaintiffs") and certain of their subsidiaries and affiliates are debtors and debtors-in-possession (the "Debtors" in chapter 11 cases (the "Chapter 11 Cases") under title 11 of the United States Code, 11 U.S.C. §§ 101-1330, as amended as of October 8, 2005. I submit this declaration in support of the Memorandum Of Law In Support Of Objection To Government Motion To Withdraw Reference.
- 2. I am over eighteen years of age and not a party to the above-captioned civil proceeding. I am a Senior Consultant of Kurtzman Carson Consultants LLC ("KCC"), and my business address is 2335 Alaska Avenue, El Segundo, California 90245. The Debtors retained KCC as the claims agent in the Chapter 11 Cases pursuant to the Final Order Under 28 U.S.C. § 156(c) Authorizing Retention And Appointment Of Kurtzman Carson Consultants LLC As Claims, Noticing, And Balloting Agent for Clerk Of Bankruptcy Court, entered by the United States Bankruptcy Court for the Southern District of New York on December 1, 2005 (Chapter 11 Case Docket No. 1374). This declaration is based upon my personal knowledge, except as to such matters as are stated upon information and belief.
- 3. I certify that the following attached exhibits are true and correct copies of certain proofs of claims filed in the Chapter 11 Cases. For each attached exhibit, the following table indicates: the exhibit number, the claimant listed on the proof of claim, the Debtor against which the claim is filed, the proof of claim number, and the status of the proof of claim.

Page 3 of 3

Exhibit Number	Gov't Agency Claimant	Debtor	Claim Number	Status Of Claim
		Delphi Automotive Systems, Inc.		
1	DHHS	(predecessor to Delphi Corp.)	2578	Objection pending
2	EEOC	Delphi Corporation	14821	Expunged
3	EEOC	Delphi Corporation	16727	Expunged/Appealed
4	EEOC	Delphi Corporation	16747	Expunged
5	EPA	Delphi Automotive Systems LLC	14309	Claim filed
		Delphi Automotive Systems		
6	IRS	Services LLC	7314	Expunged
		Delphi Automotive Systems		
7	IRS	Services LLC	14154	Objection pending
		Delphi Automotive Systems		
8	IRS	Services LLC	15822	Expunged
9	IRS	Delphi Corporation	7498	Expunged
10	IRS	Delphi Corporation	12127	Expunged
11	IRS	Delphi Corporation	14259	Expunged
12	SEC	Delphi Corporation	2445	Withdrawn

I declare under penalty of perjury that the foregoing is true and correct. Executed on

June 9, 2008 in Los Angeles, California.

Evan Gershbein

# Exhibit 1 Claim No. 2578

• APR-06-2006 12:48 CMS		P.02/02
		<u></u>
FORM B10 (Official Form (0) (04/04)	DISTRICT DY NEW YORK	PROOF OF CLAIM
Name of Dobor Delphi Automotive Systems, Inc.	Case Number > 44596 05-44596-rdd	Claim #02578 USBC SDNY Delphi Corporation, et al. 05-44481 (RDD)
Name of Creditor (The person or other entity to whom the debut owes maney or property):  U.S. Dept. of Realth and Human Services	Check tox if you are sware that anyone state has filed a proof of claim chains to your claim. Attach copy of trainment giving particular.	RECEIVED APR 1 0 2006
Office of the United States Attorney Southern District of New York 86 Chambers Street, NY, NY 10007 Telephone number: 212-637-2700	Checkings if you have never received any notices from the hanken my court in this case.  Checkings if the address different this address on the cavelope sent to be a by the court.	KURTZMAN CARSON THE SPACE IS FOR COURT USE ONLY
Account or other number by which creditor identifies debtor:	Check to replace a previously	filed claim, dated:
1. Basis for Claim  Goods sold  Savices perfermed  Meany loaned  Personal injury/wrongful death	Retined benefits as defined in 11 U  Was displaying, and compensation Last four digits of SS #:  Unput compensation for services	(in on poon)
Other Overpayment to Medicare Program	from (date) (date)  3. If copies udgment, date obtained	(date)
2. Date debt was incurred:  1/1/2001 to Frencht  4. Total Amount of Claim at Time Cope Filed: \$ 65,799  (unsecure  If all or part of your claim is secured or entitled to priority, also co  Check this box if claim includes interest or other charges in addition	d) (prio	(Total)
interest or additional charges.  5. Secured Claim.  Check this box if your claim is accured by collateral (bushding a right of secure).  Brief Description of Collaboral:  Real Brane Motor Vehicle  Value of Collaboral:  Amount of screarage and other charges at time case filed included in secured claim, if any:  6. Unsecured Nonpriority Claim : 55,799—36  Check this box if a) there is no collateral or time securing your claim, or b) your claim exceeds the value of the property securing it, or	7. Until used Priority Ciairs.  Cheek this box if you have an una Amour enduled to priority \$ Spectry the priority of the claim:  Where, salaries, or coronnesso dive before thing of the bank defor's business, whichever is Chemitalticus to an employee  10 to \$2,225° of deposits tov problemy or services for person \$37(a)(6).  Afrony, maintenance, or sup- default - 11 U.S.C. \$507(a)(  These or penalties owed to ge	ne (up to \$4,925)." estruct within 90 on pure patition or cossession of the searier - 11 U.S.C. § 507(a)(3).  benefit plan - 11 U.S.C. § 507(a)(4).  varid purchase, lease, or rental of nat, family, or household use - 11 U.S.C.  port owed to a spouse, fortner spouse, 7).  regraph of 11 U.S.C. § 507(a)(6).
8. Credits: The amount of all paymons on this claim has been credite this proof of claim.	d and deducted of the purpose of realize	Thus Small is for Court Use Only
9. Supporting Documents: Attach copies of supporting documents orders, invoices, instricted statements of running accounts, contracts, consequents, and evidence of perfection of lies. DO NOT SEND ORIGINAL NOT S	NAL DOCUMENTS. If the cocuments are	TELL A CC.
Bais    Column   Change   Composition	credition or other person authorized to like any): Denny Chang	) C



# Attachment to Proof of Claim of the United States Department of Health and Human Services

### In Re Delphi Automotive Systems, Inc.

Case No. 05-44596-rdd Chapter 11 (Voluntary, Asset)

United States Bankruptcy Court for the Southern District of New York (Manhattan)

#### 1. Basis For Claim

Debts arising under the Medicare Program established under Title XVIII of the Social Security Act, 42 U.S.C. § 1395-1395ggg.

#### 2. Date Debt Was Incurred

This claim reflects the estimated liability of the debtor to this agency of the United States for debts arising under the Medicare Program from 1/1/2001 to the petition date. Because the United States continues to search its data bases for further debts which arose under the provisions of the Medicare Secondary Payer Act, 42 U.S.C. § 1395y, subsequent debts for these and other years may be determined at a later date.

#### 8. Credits and Setoffs

The United States reserves the right to amend this claim to assert subsequently discovered liabilities. The indemnification of any sums held subject to setoff is without prejudice to any other right under 11 U.S.C. § 553 to set off, against this claim, debts owed to the debtor by this or any other federal agency.

# Exhibit 2 **Claim No. 14821**

UNITED STATES BANKRUPTCY COURT S. D D	DISTRICT OF NEW YORK	PROOF OF CLAIM
NOTE: This form should not be used to make a claim for an administrative of the case. A "request" for payment of an administrative expense may be file	od pursuant to 11 U.S.C. § 503.	Claim #14821 USBC SDNY Delphi Corporation, et al. 05-44481 (RDD)
noney or property):  J. S. Legual Employment Control Start  Name and address where notices should be sent:  Donna L. Williams Alexander Esq.  Atc Federal Bulaing Suite 3001	anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.  Check box if you have never received any notices from the bankruptcy court in this case.  Check box if the address differs from the address on the envelope sent to you by the court.  Check here preplaces	RECEIVED  AUG 1 1 2006  KURTZMANGGARSON  filed claim, dated:
1. Basis for Claim  Goods Sold / Services Performed Customer Clair Date Stamped Copy Returned Taxes Money Loaned No self addressed stamped envelope Personal Injury No copy to return Other	Retirce benefits as defined in 11 U. Wages, salaries, and compensation Last four digits of SS #: Unpaid compensation for services from	S.C. § 1114(a) (fill out below) performed
4. Total Amount of Claim at Time Case Filed: \$ (unsecured)  If all or part of your claim is secured or entitled to priority, also comp  Check this box if claim includes interest or other charges in addition to	olete Item 5 or 7 below.	ity) (Total)
interest or additional charges.  5. Secured Claim.  Check this box if your claim is secured by collateral (including a right of setoff).  Brief Description of Collateral:  Real Estate	days before filing of the bankri debtor's business, whichever is  Contributions to an employee business, whichever is  Up to \$2,225* of deposits toware property or services for persons \$507(a)(6).  Alimony, maintenance, or supportained - 11 U.S.C. \$507(a)(7)  Taxes or penalties owed to gov  Other - Specify applicable para *Amounts are subject to adjustment on *	s (up to \$10,000),* carned within 180 uptcy petition or cessation of the earlier - 11 U.S.C. \$ 507(a)(3). benefit plan - 11 U.S.C. \$ 507(a)(4). and purchase, lease, or rental of al, family, or household use - 11 U.S.C. bort owed to a spouse, former spouse, became the units-11 U.S.C. \$ 507(a)(8). graph of 11 U.S.C. \$ 507(a)(). 4/1/07 and every 3 years thereafter with after the date of adjustment. \$10,000 and
8. Credits: The amount of all payments on this claim has been credited at this proof of claim.  9. Supporting Documents: Attach copies of supporting documents, corders, invoices, itemized statements of running accounts, contracts, court j agreements, and evidence of perfection of lien. DO NOT SEND ORIGINA not available, explain. If the documents are voluminous, attach a summary.  10. Date-Stamped Copy: To receive an acknowledgment of the filing of addressed envelope and copy of this proof of claim  Date  Sign and print the name and title, if any, of the croc this claim (attach copy of power of attorney, if any).  Penalty for presenting fraudulent claim: Fine of up to \$500,000 or impriso	such as promissory notes, purchase judgments, mortgages, security L DOCUMENTS. If the documents are of your claim, enclose a stamped, self-ditor or other person authorized to file ():	THIS SPACE IS FOR COURT USE ONLY  2008  LAIMS PROCESSING CENTER USBC, SUNY

Gerschbein Decl. Exs. Page 8

EEOC Form 5 (5/01)	T 5	Agen	cy(ies) Charge No(s):			
CHARGE OF DISCRIMINATION	Charge Pres	ented to: Agoir	cylics/ ondigo : (-).			
This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		EPA	20-2005-00381			
Statement and other internation seems .	X	EOC 2:	20-2003-00301			
Ohio Civil Rights Co	mmission		and EEOC			
State or local Agency,	if any	Home Phone No. (Incl Area	Code) Date of Birth			
Name (Indicate Mr., Ms., Mrs.)		(419) 625-292				
Ms. Amy M. Hauke McCollary City. State ar	nd ZIP Code	(410) 020 202				
Street Address		_				
Po Box 1867 Sandusky, OH 44870  Named is the Employer, Labor Organization, Employment Agency, Apprenticeship (If many than two list under PARTICULARS)	Committee, or Sta	te or Local Government A	gency That I Believe			
Discriminated Against Me or Others. (If more than two, list under PARTICULARS	below.)	No. Employees, Members	Phone No. (include Area Code)			
Name		500 or More	(419) 627-7000			
DELPHI AUTOMOTIVE  City, State a	nd 7IP Code	300 01 1000	(1.0)			
Street Address	na zir coos					
2509 Hayes Ave., Sandusky, OH 44870		No. Employees, Members	Phone No. (Include Area Code)			
Name .						
City, State a	and ZIP Code		~~ <del>~</del>			
Street Address						
DISCRIMINATION BASED ON (Check appropriate box(es).)		DATE(S) DISCRIMINA Earliest	ATION TOOK PLACE Latest			
	NATIONAL ORIG	N	44.04.2004			
THE COLOR OF THE C	ER (Specify below.)	06-15-2004	11-01-2004			
X RETALIATION AGE DISABILITY OTH	Cit (opening policing	CONTI	NUING ACTION			
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):			- Oneretor My			
I began working for the above named Respondent on	November 29	, 1999 as a Machir	ne Operator, my			
ongoing basis thereafter, my immediate supervisor, G	reg McKown,	pegan making se Bushing un again	st my breasts. Each			
1 4.4 and multiper his arm around me and t	mentionany s	ייייכיי אף פווווכטון				
time, I told McKown his actions were offensive and to						
In October 2004, I warned McKown not to touch me ac	nain. Immedi	ately afterwards, l	was written up and			
			In October 2004, I warned McKown not to touch the again. Influence of the suspended for not following instructions. On November 1, 2004, I confronted McKown again and told suspended for not following instructions. On November 3, him I would no longer tolerate working in the sexually hostile environment he created. On November 3, him I would no longer tolerate working in the sexually hostile environment he created. No corrective			
2004 a meeting was held with Management, and I ma	de them awar	him I would no longer tolerate working in the sexually hostile situation. No corrective 2004, a meeting was held with Management, and I made them aware of the situation. No corrective				
action was taken.		•				
	£		No corrective			
I believe I have been discriminated against because o	of my sex, fem	ale, and retaliated	No corrective			
I believe I have been discriminated against because o complaining about a protected activity, in violation of	of my sex, fem Title VII of th	ale, and retaliated e Civil Rights Act	No corrective I against for of 1964, as			
I believe I have been discriminated against because o complaining about a protected activity, in violation of amended.	of my sex, fem Title VII of th	ale, and retaliated e Civil Rights Act	No corrective			
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complaining about a protected activity, in violation of amended.	NOTARY - When n	nale, and retaliated e Civil Rights Act f cleveland DEC	No corrective  I against for of 1964, as SEOC DIDENTIFICATION 2   2004			
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complaining about a protected activity, in violation of amended.	NOTARY - When n	ale, and retaliated e Civil Rights Act CLEVELAN DEC ecessary for State and Local A	No corrective  I against for of 1964, as SEOC OF THE PROPERTY			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.	NOTARY – When re	DEC	No corrective  I against for of 1964, as SEOC OF THE PROPERTY			
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# IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO WESTERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,  Plaintiff,	3:06CYO680
<b>v</b> .	) ) COMPLAINT AND ) JURY TRIAL DEMAND
DELPHI CORPORATION,	) ) ) )
Defendant.	) ) )

## NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964, as amended, (42 U.S.C. §2000e, et seq), ("Title VII") and Title I of the Civil Rights Act of 1991, to correct unlawful employment practices on the basis of sex, female and to make whole Amy McCullough and similarly situated employees who were adversely affected by Defendant's unlawful practices.

As alleged with greater particularity in paragraph 7 below, the Commission alleges that beginning in June of 2004, Defendant subjected its employee, Amy McCullough, to a pattern of severe and pervasive sexual harassment resulting in the creation of a sexually hostile work environment for Ms. McCullough and similarly situated females. As a result of the discrimination, Ms. McCullough suffered emotional distress.

## **JURISDICTION AND VENUE**

- 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 706(f) (1) and (3) of Title VII, 42 U.S.C. §2000e-5(f)(1) and (3), and pursuant to Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.
- The employment practices alleged to be unlawful were committed within
   The jurisdiction of the United States District Court for the Northern District of Ohio,
   Western Division.

### **PARTIES**

- 3. Plaintiff, the Equal Employment Opportunity Commission ("Commission"), is the Agency of the United States of America charged with the administration, interpretation and enforcement of Title VII and is expressly authorized to bring this action by Section 706(f) (1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).
- 4. At all relevant times, Defendant, Delphi Corporation ("Employer") has continuously been a corporation doing business in the State of Ohio and the City of Sandusky and has continuously had at least 15 employees.
- 5. At all relevant times, Defendant Employer has continuously been an employer engaged in an industry affecting commerce within the meaning of Section 701 (b), (g) and (h) of Title VII, 42 U.S.C. § 2000e (b), (g) and (h).

## STATEMENT OF CLAIMS

- More than thirty days prior to institution of this lawsuit, Amy M. 6. McCullough filed charges with the Commission alleging violations of Title VII by Defendant Employer. All conditions precedent to the institution of this suit have been fulfilled.
- Beginning during the month of June of 2004, Defendant Employer 7. engaged in unlawful employment practices in its Sandusky, Ohio location, by subjecting Amy McCollough to a sexually hostile work environment based on her sex, in violation of Section 703 of Title VII, 42 U.S.C. §2000e-2. These unlawful practices include, but are not limited to the following:
- a) Amy M. McCullough has been employed at Defendant's plant since November of 1999. In June of 2004, shortly after she came under the supervision of Greg McKown, she was subjected to a pattern of severe and pervasive sexual harassment perpetrated by McKown.
- The sexual harassment perpetrated by McKown against Ms. McCullough consisted of constant inappropriate remarks and touching.
- c) Ms. McCullogh made it clear from the beginning of the harassment that it was unwelcome and she objected to the behavior.
- d) Ms. McCullough complained about the inappropriate conduct not only to McKown, she also complained to his supervisor and other management personnel at Defendant.

Filed 06/09/2008

- Despite her complaints, Defendant Employer failed to stop the e) harassment and allowed a workplace permeated with severe and pervasive harassment based on sex, female;
- f) Defendant Employer subjected Amy M. McCullough and similarly situated female employees to a pattern of severe and pervasive sexual harassment during her/their employment;
- g) Defendant Employer failed to exercise reasonable care to prevent and eradicate the sexual harassment;
- h) Defendant's conduct caused Amy M. McCullough emotional suffering and anxiety which required medical attention.
- The effect of the practices complained of deprived Amy M. McCullough of 8. equal employment opportunities and adversely affected her status as an employee due to impermissible considerations of sex.
  - The unlawful practices complained of above were intentional. 9.
- The unlawful employment practices complained of above were undertaken 10. with malice and/or reckless indifference to the federally protected rights of Amy M. McCullough.

# PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court:

Grant a permanent injunction enjoining Defendant Employer, its officers, successors, assigns and all persons in active concert or participation with it, from discriminating against individuals by the implementation of practices and policies which prevent discrimination on the basis of sex.

Filed 06/09/2008

- Order Defendant Employer to institute and carry out policies, practices and B. programs which provide equal employment opportunities for persons regardless of sex and which eradicate the effects of its past and present unlawful employment practices.
- C. Order Defendant Employer to make whole Amy M. McCullough by providing appropriate back pay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices.
- D. Order Defendant Employer to make whole Amy M. McCullough by providing affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to, back pay and front pay in amounts to be proven at trial.
- E. Order Defendant Employer to make whole Amy M. McCullough by providing compensation for past and future pecuniary losses, in amounts to be proven at trial.
- F. Order Defendant Employer to make whole Amy M. McCullough by providing compensation for past and future non-pecuniary losses in amounts to be proven at trial.
- Grant an order assessing punitive damages against Defendant Employer for its malicious and reckless conduct described herein above in amounts to be determined at trial.
- Grant such further relief as the Court deems necessary and proper in the Η. public interest.
  - Award the Commission its costs in this action. 1.

# **JURY TRIAL DEMAND**

The Commission requests a jury trial on all questions of fact raised by its Complaint.

Respectfully submitted,

JAMES L. LEE **DEPUTY GENERAL COUNSEL** 

**GWENDOLYN YOUNG REAMS** ASSOCIATE GENERAL COUNSEL 1801 L. Street, N.W. Washington, D.C. 20507

bacqueline McNair Regional Attorney

C. Larry Watson

Associate Regional Attorney Registration No. 0031443 larry.watson@eeoc.gov

Donna Williams-Alexander

Trial Attorney

Registration No. 0037838

donna.williams-alexander@eeoc.gov

EQUAL EMPLOYMENT OPPORTUNITY

COMMISSION

Cleveland Field Office

Anthony J. Celebrezze Federal Office Building

1240 East Ninth Street - Suite 3001

Cleveland, Ohio 44199

(216) 522-7454

(216) 522-7430 fax

donna.williams-alexander@eeoc.gov

Exhibit 3 Claim No. 16727

FORM B10 (Official Form 10) (4/98)	N. V.	PROOF OF CLAIM		
UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF				
Name of Debtor Delphi Corp. et al	Case Number  05-44481			
NOTE: This form should not be used to make a claim for an administrative expense arising payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.  Name of Creditor  U.S. Equal Employment Opportunity Commission  Name and address where notices should be sent:  Margaret A. Malloy  Trial Attorney  U.S. Equal Employment Opportunity Commission	Check box if you are aware that anyone else has filed a proof of claim relating to your claim.  Attach copy of statement giving particulars.	Claim #16727 USBC SDNY Delphi Corporation, et al. 05-44481 (RDD)		
33 Whitehall St. New York, NY 10004	Check box if you have never received any notices from the bankruptcy court in this case.			
212-336-3690	Check box if the address differs from the address on the envelope sent to you by the court.	THIS SPACE IS FOR COURT USE ONLY		
ACCOUNT OR OTHER NUMBER BY WHICH CREDITOR IDENTIFIES DEBTOR: ${f NA}$	Check here if this claim: ☐ replaces ☐ amends a previously filed	claim, dated:		
I. BASIS FOR CLAIM:  Goods sold Services performed Wages, salaries, and compensations (fill out below) Your SS#: Unpaid compensation for services performed Taxes Other (Describe briefly): Violation of Americans with Disabilities Act 42 U.S.C. § 12101 et seq.				
(date)  (date)  2. DATE DEBT WAS INCURRED: May 21, 2004  3. IF COURT JUDGMENT, DATE OBTAINED:  (A TOTAL AMOUNT OF CLAIM AT TIME CASE FILED: Unliquidated If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below.  (Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.				
5. SECURED CLAIM.  Check this box if your claim is secured by collateral (including a right of setoff).  Brief Description of Collateral:  Real Estate Motor Vehicle  Other:  Value of Collateral:  Amount of arrearage and other charges at time case filed included in secured claim, if any:	6. UNSECURED PRIORITY CLAIM. Check this box if you have an unsecured priority Amount entitled to priority \$ unliquidated Specify the priority of the claim: Wages, salaries, or commissions (up to \$4,000)* bankruptcy petition or cessation of the debtor's \$507(a)(3). Contributions to an employee benefit plan - 11L Up to \$1800* of deposits toward purchase, lease family, or household use - 11 U.S.C. § 507(a)(6) Alimony, maintenance, or support owed to a spe 507(a)(7). Taxes or penalties of governmental units - 11 U. Other - Specify applicable paragraph of 11 U.S. * Amounts are subject to adjustment on 4/1/04 a commenced on or after the date of adjustness.	claim  carned within 90 days before filing of the business, whichever is earlier - 11 U.S.C. §  S.C. § 507(a)(4).  c, or rental of property or services for personal, (i).  buse, former spouse, or child - 11 U.S.C. §  S.C. § 507(a)(8).  C. § 507(a)(_).  nd every 3 years thereafter with respect to cases ment.		
<ol> <li>CREDITS: The amount of all payments on this claim has been credited and deducts.</li> <li>SUPPORTING DOCUMENTS: Attach copies of supporting documents, such as a statements of running accounts, contracts, court judgments, mortgages, security as SEND ORIGINAL DOCUMENTS. If the documents are not available, explain.</li> <li>DATE-STAMPED COPY: To receive an acknowledgment copy of the filing of y copy of this proof of claim.</li> </ol>	greenents, and evidence of perfection of lien. DO NOT	THIS SPACE FOR COURT USE ONLY  RECEIVED		
Date  October 12, 2007  Sign and print the hame file this claim (attach co	man title any, or necessary of some person and property of power of intomey, if any)  Margaret A. Malloy  Trial Attorney	OCT' 1 6 2007 KURTZMAN CARSON		
Parelty for presenting fraudulent claim: Fine of up to \$500,000 or imp	risonment for up to 5 years, or b	 		



#### NATURE OF THE ACTION

This is an action under Title I of the Americans with Disabilities Act of 1990 ("ADA") and Title I of the Civil Rights Act of 1991, to correct unlawful employment practices and to provide relief to Stanley Straughter ("Charging Party") and to a class of similarly situated individuals who have been adversely affected by such practices. As alleged with particularity below, Defendant Delphi Corp. ("Defendant") violated the ADA by making disability-related inquiries of employees, including Charging Party, for purposes inconsistent with those permitted by the ADA, and by taking adverse employment action against Charging Party and a class of similarly situated individuals in retaliation for and interfering with their exercise of their rights protected by the ADA.

#### **JURISDICTION AND VENUE**

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343, and 1345. This action is authorized and instituted pursuant to Section 107(a) of the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12117(a), which incorporates by reference §§ 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. §§ 2000e-5(f)(1) and (3).

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2. The unlawful employment practices alleged were committed within the jurisdiction of the United States District Court for the Western District of New York.

### **PARTIES**

- 3. Plaintiff, Equal Employment Opportunity Commission ("EEOC"), is the agency of the United States of America charged with the administration, interpretation, and enforcement of Title I of the ADA and is expressly authorized to bring this action by Section 107(a) of the ADA, 42 U.S.C. § 12117(a), which incorporates by reference Sections 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1).
- 4. At all relevant times, Defendant has continuously been a corporation doing business in the State of New York and has continuously employed at least fifteen employees.
- 5. At all relevant times, Defendant has continuously been an employer engaged in an industry affecting commerce under Section 101(5) of the ADA, 42 U.S.C. § 12111(5), and Section 101(7) of the ADA, 42 U.S.C. § 12111(7), which incorporates by reference Sections 701(g) and (h) of Title VII, 42 U.S.C. §§ 2000-e(g) and (h).
- 6. At all relevant times, Defendant has been a covered entity under Section 101(2) of the ADA, 42 U.S.C. § 12111(2).

## **STATEMENT OF CLAIMS**

- 7. More than thirty days prior to the institution of the lawsuit, Charging Party filed a charge with the EEOC alleging violations of Title I of the ADA by Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.
- 8. Since at least 2004, Defendant has engaged in unlawful employment practices in violation of Sections 102 and 503 of the ADA, 42 U.S.C. §§ 12112(d)(4)(A) and 12203, as outlined below:

- a. Charging Party was employed as a Laborer by Defendant from May 22 to August 17, 2006.
  - b. On August 14 and 15, 2006, Charging Party called in sick.
- c. On August 16, 2006, Charging Party returned to work with a doctor's note verifying that he had been unable to work due to illness on the two days that he was out.
- d. Defendant informed Charging Party that he was required to sign an authorization form to allow Defendant to obtain information from Charging Party's personal physician about his medical condition.
- e. Charging Party refused to sign the form, stating that he believed the inquiry into his medical condition was unlawful.
- f. Defendant informed Charging Party that it was Defendant's policy to check all doctors' notes to verify that the reasons for the absence are acceptable, and that although an employee could refuse to sign the release, the result would be that Defendant would not accept the excuse for the absence.
- g. Charging Party asked to take a copy of the form and respond the next day.

  Defendant consented to this request.
- h. Charging Party then modified the form to allow Defendant to verify with his doctor that he had been unable to work on the two days that he was out, but not to discuss his actual medical condition.
- When Charging Party presented Defendant with the modified form the next day,
   he was told that it was unacceptable.
- j. Charging Party again stated his belief that it was unlawful for Defendant to demand to know his medical information.

- k. Defendant immediately fired Charging Party for being "an unsatisfactory temporary employee."
- 9. The ADA prohibits employers from making inquiries as to whether an employee is an individual with a disability unless the inquiry is shown to be job-related and consistent with business necessity.
- 10. Defendant's requirement that employees returning from sick leave sign a release of their medical information is a disability-related inquiry that is not job-related or consistent with business necessity.
- 11. Defendant's requirement that employees returning from sick leave sign a release of their medical information and its practice of disciplining, withholding pay from and/or taking any other adverse employment action against employees who fail to comply with this unlawful policy constitutes coercion, intimidation and/or interference with employees' exercise or enjoyment of their rights under the ADA.
- 12. Defendant's practice of disciplining, withholding pay from and/or taking any other adverse employment action against employees who refuse to comply with the unlawful policy constitutes retaliation against such employees for engaging in activity protected by the ADA.
- 13. The effect of the practices complained of above has been to deprive Charging

  Party and a class of other individuals of equal employment opportunities and otherwise adversely

  affect their status as employees.
- 14. The effect of the practices complained of above has been to inflict emotional pain, suffering, and inconvenience upon Charging Party and similarly situated individuals.
  - 15. The unlawful employment practices complained of above were intentional.

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- 16. The unlawful employment practices complained of above are continuing.
- 17. The unlawful employment practices complained of above were done with malice and reckless disregard for the federally protected rights of Charging Party and similarly situated individuals, in violation of 42 U.S.C. § 12101, et seq.

### PRAYER FOR RELIEF

Wherefore, EEOC respectfully requests that this Court:

- A. Enjoin Defendant, its officers, successors, assigns, and all persons in active concert or participation with it, from making any disability-related inquiries that are not jobrelated and consistent with business necessity;
- B. Order Defendant to institute and carry out policies, practices, and programs that provide equal employment opportunities for qualified individuals with disabilities and that eradicate the effects of its past and present unlawful employment practices;
- C. Order Defendant to make whole all those individuals affected by the unlawful employment practices described above, by providing appropriate back-pay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary including reinstatement to eradicate the effects of Defendants' unlawful employment practices;
- D. Order Defendant to make whole all of those individuals adversely affected by the unlawful employment practices described above by providing compensation for nonpecuniary losses, including pain, suffering, and humiliation in amounts to be determined at trial;
- E. Order Defendant to pay all those individuals adversely affected by the unlawful employment practices described above punitive damages for Defendant's malicious and/or reckless conduct in amounts to be determined at trial.
  - G. Grant such further relief as the Court deems necessary and proper.

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H. Award the EEOC its costs in this action.

# **JURY TRIAL DEMAND**

EEOC requests a jury trial on all questions of fact raised by this Complaint.

Dated: September 27, 2007

Ronald S. Cooper General Counsel

James Lee Deputy General Counsel

Gwendolyn Y. Reams Associate General Counsel

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION 1801 L Street, N.W. Washington, D.C. 20507

s/Elizabeth Grossman

Elizabeth Grossman Regional Attorney

s/Judy Keenan

Judy Keenan Supervisory Trial Attorney

s/Margaret A. Malloy

Margaret A. Malloy Trial Attorney, U.S. EEOC 33 Whitehall Street, 5<sup>th</sup> Floor New York, New York 10004 margaret.malloy@eeoc.gov Phone 212-336-3690 Fax 212-336-3623

# Exhibit 4 **Claim No. 16747**

FORM B10 (Official Form 10) (04/05)	DISTRICT OF NEW YOYK	PROOF OF CLAIM
Onthe States Branker to		
Delphi Corporation, etal		Claim #16747
NOTE: This form should not be used to make a claim for an administrative of the case. $\Lambda$ "request" for payment of an administrative expense may be fill	expense arising after the commencement ed pursuant to 11 U.S.C. § 503.	USBC SDNY Delphi Corporation, et al. 05-44481 (RDD)
Name of Creditor (The person or other entity to whom the debtor owes money or property):  U. S. Equa Employment Opportunity  Commaission  Name and address where notices should be sent:	<ul> <li>Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.</li> <li>Check box if you have never</li> </ul>	RECEIVED
Anthony J. Celebrozze Bulding 1240 East Ninth St. Suite 300] Cleveland, Ohio 44199	Check box if you have never received any notices from the bankruptcy court in this case.  Check box if the address differs from the address on the envelope sent to you by the court.	NOV 1 6 2007 KURTZMAN CARSON
Telephone number: 216-522-7454  Account or other number by which creditor identifies debtor:	Check here ☐replaces if this claim a previously	THIS SPACE IS FOR COURT USE ONLY filed claim, dated:
1. Basis for Claim	□ amends	
Goods Sold / Services Performed Customer Claim Taxes Money Loaned Personal Injury	Wages, salaries, and compensation Last four digits of SS #: Unpaid compensation for services  from	(fill out below) performed
1.1 Other	(date)	(date)
2. Date debt was incurred:	3. If court judgment, date obtained	:
12-15-04 Scontinuing violation	<b>30</b> 000	(A) 8 30,000, (A)
4. Total Amount of Claim at Time Case (Fled: \$(unsecured)	(secured) (prior	rity) (Total)
If all or part of your claim is secured or entitled to priority, also com  Check this box if claim includes interest or other charges in addition interest or additional charges.	plete Item 5 or 7 below. to the principal amount of the claim. Att	ach itemized statement of all
5. Secured Claim.  Check this box if your claim is secured by collateral (including a	7. Unsecured Priority Claim.  Check this box if you have an uns	1
right of setoff).  Brief Description of Collateral:  Real Estate	days before filing of the bank debtor's business, whichever is	ns (up to \$10,000),* carned within 180 rupley petition or cessation of the searlier - 11 U.S.C. § 507(a)(3).
Value of Collateral: \$	Up to \$2,225* of deposits tow property or services for person 8 507(a)(6).	benefit plan - 11 U.S.C. § 507(a)(4).  vard purchase, lease, or rental of hal, family, or household use - 11 U.S.C.
secured claim, if any: \$  6. Unsecured Nonpriority Claim \$	☐ Alimony, maintenance, or sup or child - 11 U.S.C. § 507(a)(	vernmental units-11 U.S.C. § 507(a)(8).
Check this box if: a) there is no collateral or lien securing your claim, or b) your claim exceeds the value of the property securing it, or if c) none or only part of your claim is entitled to priority.	*Amounts are subject to adjustment on	ragraph of 11 U.S.C. § 507(a)(). 4/1/07 and every 3 years thereafter with after the date of adjustment. \$10,000 and on or after 4/20/05. Pub. L. 109-8.
8. Credits: The amount of all payments on this claim has been credited this proof of claim.	and deducted for the purpose of making	THIS SPACE IS FOR COURT USE ONLY
<ol> <li>Supporting Documents: Attach copies of supporting documents orders, invoices, itemized statements of running accounts, contracts, cour agreements, and evidence of perfection of lien. DO NOT SEND ORIGIN not available, explain. If the documents are voluminous, attach a summar</li> </ol>	t judgments, mortgages, security AL DOCUMENTS. If the documents are y.	DECENWED NOV 14.2007
addressed envelope and copy of this proof of claim		CLAMPPRINCESSONELCEPTED
this claim (attach copy of power of attorney, if at	ny):	(ISBC, SOW) 1
Donna F. Williams - Al	exarder 150.	





Cleveland Field Office

#### **DONNA L. WILLIAMS-ALEXANDER** Senior Trial Attorney

Anthony J. Celebrezze Office Building 1240 East Ninth Street, Suite 3001 Cleveland, OH 44199 (216) 522-7454 done Fax (216) 522-7430 donna.williams-alexander@eeoc.gov

Exhibit 5 Claim No. 14309

# ORIGINAL

United States Bankruptcy Court SOUTHERN [	DISTRICT OF NEW YORK	PROOF OF CLAIM	
Name of Debtor Delphi Automotive Systems LLC	Case Number 05-44640 (RDD)	Received	
NOTE: This form should not be used to make a claim for an administrative of the case. A "request" for payment of an administrative expense may be fil	expense arising after the commencement led pursuant to 11 U.S.C. § 503.	AUG 0 9 2006	
Money or property):  U.S. Environmental Protection Agency  Name and address where notices should be sent:  David J. Kennedy  Assistant U.S. Attorney, SDNY  86 Chambers Street, 3rd Floor  New York, NY 10007  Telephone number: (212) 637-2733	Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.  Check box if you have never received any notices from the bankruptcy court in this case.  Check box if the address differs from the address on the envelope sent to you by the court.	Kurtzman Carson  Claim #14309 USBC SDNY Delphi Corporation, et al. 05-44481 (RDD)  This Space is for Court Use Only	
Account or other number by which creditor identifies debtor:  1. Basis for Claim	if this claim a previously  ☐ amends	filed claim, dated:	
☐ Goods sold ☐ Services performed See attached. ☐ Money loaned ☐ Personal injury/wrongful death ☐ Taxes ☐ Other	Retiree benefits as defined in 11 U Wages, salaries, and compensation Last four digits of SS #: Unpaid compensation for services from to (date)	(fill out below) performed (date)	
2. Date debt was incurred: See attached.	3. If court judgment, date obtained See attached.	l:	
4. Total Amount of Claim at Time Case Filed: \$ See attached. (unsecured) (secured) (priority) (Total)  If all or part of your claim is secured or entitled to priority, also complete Item 5 or 7 below.  Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.			
5. Secured Claim.  Check this box if your claim is secured by collateral (including a right of setoff).  Brief Description of Collateral:  Real Estate  Other.  Value of Collateral:  Amount of arrearage and other charges at time case filed included in secured claim, if any:  Meeting the secured time is no collateral or lien securing your claim, or b) your claim exceeds the value of the property securing it, or if c) none or only part of your claim is entitled to priority.	<ul> <li>□ Contributions to an employee</li> <li>□ Up to \$2,225* of deposits tow property or services for person § 507(a)(6).</li> <li>□ Alimony, maintenance, or sup or child - 11 U.S.C. § 507(a)(</li> <li>□ Taxes or penalties owed to go</li> <li>□ Other - Specify applicable para *Amounts are subject to adjustment on respect to cases commenced on or 180-day limits apply to cases filed</li> </ul>	ns (up to \$10,000),* earned within 180 ruptcy petition or cessation of the s earlier - 11 U.S.C. § 507(a)(3). benefit plan - 11 U.S.C. § 507(a)(4). vard purchase, lease, or rental of nal, family, or household use - 11 U.S.C. port owed to a spouse, former spouse, 7). overnmental units-11 U.S.C. § 507(a)(8). ragraph of 11 U.S.C. § 507(a)(). 4/1/07 and every 3 years thereafter with a after the date of adjustment. \$10,000 and to no rafter 4/20/05. Pub. L. 109-8.	
8. Credits: The amount of all payments on this claim has been credited this proof of claim.  9. Supporting Documents: Attach copies of supporting document orders, invoices, itemized statements of running accounts, contracts, cour agreements, and evidence of perfection of lien. DO NOT SEND ORIGIN not available, explain. If the documents are voluminous, attach a summa 10. Date-Stamped Copy: To receive an acknowledgment of the filin addressed envelope and copy of this proof of claim  Date  Sign and print the name and title, if any, of the copy of power of attorney, if a	THIS SPACE IS FOR COURT USE ONLY  FILED  FILED  S.D.N.Y.  S.D.N.Y.		
3/31/06 this claim (attach thy of Andrea	DAVID J. ILGUNERY, ALUSTIA.	₩ C	

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years



MICHAEL J. GARCIA
United States Attorney for the
Southern District of New York
By: DAVID J. KENNEDY (DK-8307)
Assistant United States Attorney
86 Chambers Street, Third Floor
New York, New York 10007

Tel. No.: (212) 637-2733 Fax No.: (212) 637-2686

# UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK

In re:

CHAPTER 11

DELPHI AUTOMOTIVE SYSTEMS LLC,

Case No. 05-44640-rdd

Jointly Administered

Debtors.

# PROOF OF CLAIM OF THE UNITED STATES ON BEHALF OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

- 1. The United States files this Proof of Claim at the request of the U.S.

  Environmental Protection Agency ("EPA"), against debtor Delphi Automotive Systems LLC
  ("Delphi"), for response costs incurred and to be incurred by the United States under the
  Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42
  U.S.C. §§ 9601-9675 at the Superfund Sites set forth herein in Paragraphs 2 through 7, infra. In
  addition, with respect to equitable remedies that are not within the Bankruptcy Code's definition
  of "claim," 11 U.S.C. § 101(5), this proof of claim is only filed in protective fashion. See, e.g.,
  Paragraphs 3, 8, 9, and 10, infra.
- 2. <u>Tremont City Landfill Superfund Site</u>. Delphi is liable to the United States under CERCLA with respect to the Tremont City Landfill Superfund Site located at 3108 Snyder-

Domer Road, Tremont City, German Township, Clark County, Ohio (the "Tremont City Site"). The 80-acre Site includes several facilities including a closed 8.5 acre chemical waste landfill (the "Barrel Fill" facility), a closed 56 acre sanitary landfill (the "Landfill" facility), and a 15.5 acre closed oil recycling and hazardous waste storage and transfer operation (the "Waste Storage" facility). Delphi is liable to the United States because by contract, agreement or otherwise, it arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by Delphi at the Barrel Fill and Landfill facilities owned by another party or entity, and containing hazardous substances, pursuant to Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3). Delphi disposed of drums and bulk wastes containing, inter alia, paint sludge, polyester resins, polystyrene, sulfuric acid sludge, paint waste, polyol resin and caustic sludge at the Barrel Fill facility and solid wastes at the Landfill facility. The closed Barrel Fill and Landfill operations are facilities within the meaning of CERCLA. There have been releases or threats of releases of hazardous substances, including but not limited to, inorganic compounds (antimony, arsenic, thallium, cyanide and lead) and volatile organic compounds (xylene, methylene chloride, ethyl benzene and acetone), from the facilities at the Tremont City Site. These hazardous substances have been released into the waterways, surface water, soils, and sediments at the Tremont City Site. Other potentially responsible parties may, along with Delphi, also be jointly and severally liable to the United States under CERCLA with respect to the Barrel Fill and Landfill facilities.

This Proof of Claim is filed in a protective manner with respect to Delphi's 3. obligations to perform work with respect to the Tremont City Site. See Paragraph 8, infra. On October 3, 2002, EPA entered into an Administrative Order on Consent ("AOC")(Docket # V- W-03-C-719) with Delphi that required Delphi, and six other respondents, inter alia, to conduct a Remedial Investigation/Feasibility Study ("RI/FS") at the Tremont City Site. Delphi and the remaining AOC respondents have completed the RI field work. EPA estimates that it may cost the jointly and severally liable parties, including Delphi, approximately \$1 million to complete the required work under the AOC, some of which has already been performed. EPA has not yet selected remedial action under CERCLA for the Barrel Fill and Landfill facilities at the Tremont City Site and Delphi has therefore not yet been ordered to perform remedial work, but may be ordered by a court or other authority found to have jurisdiction to do so in the future. Since investigations at the Barrel Fill and Landfill facilities at the Tremont City Site are continuing and remedial action has not yet been selected, the cost of Remedial Design/Remedial Action ("RD/RA") to Delphi is uncertain at this time, but the work with respect to these facilities could cost the jointly and severally liable parties, including Delphi, as much as a total of \$22.2 million or more, in addition to the \$1 million described above. EPA estimates that RD/RA work relating to the Barrel Fill facility could cost the jointly and severally liable parties, including Delphi, approximately \$7 million. EPA estimates that RI/FS work and RD/RA work relating to the Landfill facility could cost the jointly and severally liable parties, including Delphi, approximately \$14.5 million.

4. Response costs have been and will be incurred by EPA with respect to the Tremont City Site not inconsistent with the National Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, and set forth at 40 C.F.R. Part 300, as amended. Under the AOC, Delphi is also liable to make payments for future oversight costs to EPA, which EPA estimates to be \$100,000. In addition, the United States has incurred unreimbursed

response costs to date of approximately \$820,000 with respect to the Barrel Fill and Landfill facilities at the Tremont City Site for previous work, including inter alia, a Preliminary Assessment/Site Investigation ("PA/SI"). Delphi is jointly and severally liable to the United States for the above amounts. Delphi is also jointly and severally liable for interest due under 42 U.S.C. § 9607(a). Other potentially responsible parties may along with Delphi also be jointly and severally liable to the United States for all of the above amounts plus interest due under 42 U.S.C. § 9607(a).

South Dayton Dump & Landfill Superfund Site. Delphi is liable to the United 5. States under CERCLA with respect to the South Dayton Dump and Landfill Superfund Site ("South Dayton Site") located at 1975 Dryden Road, Moraine, Ohio. Delphi is liable to the United States because by contract, agreement or otherwise, it arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by Delphi at the South Dayton Site owned by another party or entity, and containing hazardous substances, pursuant to Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3). Delphi arranged for the disposed of hazardous wastes, including but not limited to asbestos, flyash, metallic dust, oil and grease sludge and paint wastes at the South Dayton Site from several Delphi facilities in the Dayton and Kettering, Ohio area. The South Dayton Site is a facility within the meaning of CERCLA. The South Dayton Site was proposed for inclusion on the National Priorities List ("NPL"), pursuant to CERCLA Section 105, 42 U.S.C. § 9605, on September 23, 2004 (see 69 Fed. Reg. 56970). There have been releases or threats of releases of hazardous substances, including but not limited to, inorganic compounds (arsenic, cadmium, chromium, mercury and lead) and volatile and semi-volatile organic compounds (1,2dichloroethene, tetrachloroethene, toluene, polychlorinated biphenyls ("PCBs")), at the South Dayton Site. These hazardous substances have been released into the soil and groundwater at the South Dayton Site. Other potentially responsible parties may, along with Delphi, also be jointly and severally liable to the United States under CERCLA with respect to the South Dayton Site.

- Response costs have been and will be incurred by EPA with respect to the 6. South Dayton Site not inconsistent with the National Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, and set forth at 40 C.F.R. Part 300, as amended. The United States has incurred unreimbursed response costs to date of approximately \$404,349 with respect to the South Dayton Site. Delphi is liable to the United States for this amount. Delphi is also liable for interest due under 42 U.S.C. § 9607(a). Other potentially responsible parties may along with Delphi also be jointly and severally liable to the United States for all of the above amounts plus interest due under 42 U.S.C. § 9607(a).
- EPA expects to incur future response costs in connection with the remedial 7. design and remedial action for the South Dayton Site. These costs have been estimated by EPA at between \$20 and 50 million. Along with other identified PRPs, Delphi is jointly and severally liable to the United States for these amounts.
- Protective Filing For Work Obligations. The United States is not required to file a 8. proof of claim with respect to Delphi's injunctive obligations to comply with work requirements arising under Orders of Courts, Administrative Orders, and other environmental regulatory requirements imposed by law that are not claims under 11 U.S.C. § 101(5). Delphi and any reorganized debtor(s) must comply with such mandatory injunctive and regulatory and compliance requirements. The United States reserves the right to take future actions to enforce

any such obligations of Delphi. While the United States believes that its position will be upheld by the Court, the United States has filed only in protective fashion with respect to such obligations and requirements as indicated herein to protect against the possibility that Delphi will contend that it does not need to comply with any such obligations and requirements and the Court finds that it is not required to do so. Therefore, a protective contingent claim is filed in the alternative for such obligations and requirements but only in the event that the Court finds that such obligations and requirements are dischargeable claims under 11 U.S.C. § 101(5) rather than obligations and requirements that reorganized Delphi must comply with. Nothing in this Proof of Claim constitutes a waiver of any rights of the United States or an election of remedies with respect to such rights and obligations.

9. RCRA Compliance and Work Obligations. This Proof of Claim is filed in a protective manner with respect to Delphi's compliance and work obligations under the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §§ 6901 - 6992k. See Paragraph 8, supra. RCRA establishes a comprehensive regulatory program for generators of hazardous waste and for owners and operators of facilities that treat, store, or dispose of hazardous waste. Delphi is the owner and operator of RCRA-regulated facilities in including, but not limited to, Vandalia, Ohio (Vandalia Facility), as well as other locations. Pursuant to its authority under RCRA, EPA has promulgated regulations applicable to such generators and such owners and operators of hazardous waste management facilities. The federal RCRA implementing regulations are set forth at 40 C.F.R. Part 260 et seq. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, EPA has authorized various States to administer various aspects of the hazardous waste management program in such States. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), these

authorized State hazardous waste management program are enforceable by EPA. Under RCRA, Delphi is required, inter alia, to operate in compliance with RCRA regulatory requirements, implement closure and post-closure work and corrective action work, and perform any necessary action with respect to any imminent and substantial endangerment to health or the environment, see, e.g., 42 U.S.C. §§ 6924, 6928, 6973, as required by RCRA and/or RCRA permits or Administrative Orders. For example, in or about January 2002, EPA and Delphi entered into a RCRA Administrative Order on Consent with regard to the Vandalia, Ohio Facility, which requires, inter alia, the continuing implementation of a Corrective Measures Plan at that Facility. Delphi is liable for injunctive and compliance obligations that it is required to perform under RCRA, RCRA permits, and all work requirements under RCRA permits and administrative orders. It is the position of the United States that a proof of claim is not required to be filed for injunctive, compliance, and regulatory obligations and requirements under RCRA. See Paragraph 8, supra. Other liable parties may along with Delphi also be jointly and severally liable to the United States under RCRA.

liabilities for properties that are part of its bankruptcy estate and/or for the migration of hazardous substances from property of its bankruptcy estate. For example, Delphi has voluntary corrective action agreements for ongoing investigations pursuant to schedules approved by EPA for certain facilities set forth in Paragraph 9, supra. In accordance with 28 U.S.C. § 959, Delphi is required to comply with non-bankruptcy law, including all applicable environmental laws, in managing and operating its property. Upon confirmation of any Plan of Reorganization, reorganized Delphi will be liable as owner or operator of property in accordance with applicable

environmental law. The United States is not required to file a proof of claim relating to property of the estate other than for response costs incurred prior to the petition date. The United States reserves the right to file an application for administrative expense or take other appropriate action in the future with respect to property of the estate. This Proof of Claim is filed only protectively with respect to property of the estate.

- 11. This Proof of Claim reflects certain known liabilities of Delphi to the United States. The United States reserves the right to amend this claim to assert subsequently discovered liabilities. This Proof of Claim is without prejudice to any right under 11 U.S.C. § 553 to set off, against this claim, debts owed (if any) to the debtor by this or any other federal agency.
- The United States has not perfected any security interest on its claims against Delphi.
- secured/trust interest in insurance proceeds received by Delphi on account of environmental liability to the United States, disputed past cost amounts held in escrow by Delphi pending dispute resolution, and to the extent administrative expense priority exists relating to property of the estate, post-petition violations of law, or otherwise. In addition, the United States will file any application for administrative expense priority at the appropriate time. The United States' position with respect to injunctive, compliance, regulatory, and work obligations that are not claims under 11 U.S.C. § 101(5) is set forth in Paragraph 8, supra.
- 14. Except as stated in this Proof of Claim, no judgments against Delphi have been rendered on this Proof of Claim.

This Proof of Claim is also filed to the extent necessary to protect the United 15. States' rights relating to any insurance proceeds received by Delphi relating to sites discussed herein and any funds being held in escrow by Delphi relating to the sites discussed herein.

Dated:

New York, New York

July 31, 2006

Respectfully submitted,

FOR THE UNITED STATES OF AMERICA:

MICHAEL J. GARCIA

United States Attorney for the Southern District of New York

DAVID J. KENNEDY (DK-8307)

Assistant United States Attorney

86 Chambers Street, Third Floor

New York, New York 10007 Tel. No.: (212) 637-2733

Fax No.: (212) 637-2730

W. BEN AMIN FISHEROW

Deputy Section Chief

Environment and Natural Resources Division

ALAN S. TENENBAUM

National Bankruptcy Coordinator **Environmental Enforcement Section** Environment and Natural Resources Division U.S. Department of Justice P.O. Box 7611, Ben Franklin Station Washington, D.C. 20044-7611

(202) 514-5409

FRANCIS J. BIROS

Trial Attorney

Environmental Enforcement Section

Environment and Natural Resources Division

U.S. Department of Justice

P.O. Box 7611, Ben Franklin Station

Washington, D.C. 20044-7611

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#### OF COUNSEL:

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THOMAS C. NASH
THOMAS WILLIAMS
Associate Regional Counsels
U.S. Environmental Protection Agency-- Region 5-Mail Code C14J
77 West Jackson Boulevard
Chicago, Illinois 60604-3594

# Exhibit 6 Claim No. 7314

FORM B10 (Official Form 10)(10/05)		PROOF OF GLAIM	
UNITED STATES DANKROFICE COOK!	ISTRICT OF NEW YORK	Claim #072	
Name of Debtor DELPHI AUTOMOTIVE SYSTEMS SERVICES Case Number 05-44632-RDD		USBC SDNY Delphi Corporation, et al. 05-44481 (RDD)	
NOTE: This form should not be used to make a claim for an administrative exp of the case. A "request" for payment of an administrative expense may be file			
Name of Creditor (The person or other entity to whom the debtor owes money or property):  Department of the Treasury - Internal Revenue Service	<ul> <li>Check box if you are aware that anyone else has filed a proof of claim relating to your claim.</li> <li>Attach copy of statement giving</li> </ul>	JUN 1 2006	
Name and address where notices should be sent:	particulars.  Check box if you have never	JOIN	
Internal Revenue Service INTERNAL REVENUE SERVICE	received any notices from the bankruptcy court in this case.	ARVAN	
290 BROADWAY, 5TH FL NEW YORK, NY 10007	Check box if the address differs from the address on the envelope sent to you by the court.	THIS SPACE IS FOR COURT USE ONLY	
Telephone number: (212) 436-1038 Creditor #:  Last four digits of account or other number by which creditor identifies debtor: see attachment	Check here ☐ replaces a previous if this claim ☐ amends	ously filed claim, dated:	
1. Basis for Claim	Retirce benefits as define Wages, salaries, and com	ipensation (fill out below)	
☐ Goods sold ☐ Services performed	Last four digits of your S Unpaid compensation for	S#:	
☐ Money loaned ☐ Personal injury/wrongful death ☐ Taxes	from(date)	to(date)	
☐ Other	3. If court judgment, date obtain	ed:	
2. Date debt was incurred: see attachment			
4. Classification of Claim. Check the appropriate box or boxes that bes	t describe your claim and state the amount of Secured Claim.	of the claim at the time case filed.	
Unsecured Nonpriority Claim \$			
Check this box if: a) there is no collateral or lien securing your claim, or b) your claim exceeds the value of the property securing it, or if c) none or only part of your claim is entitled to priority.	Brief Description of Collateral:  X Real Estate X Motor Vehic		
Unsecured Priority Claim.  ☐ Check this box if you have an unsecured claim, all or part of which i entitled to priority.	Value of Collateral: \$ <u>see</u> * All of debtor(s) right, title and inter Amount of arrearage and other charg secured claim, if any: \$ <u>103,1</u>	rest to property - 28 U.S.C \$ 6327. res at time case filed included in	
Amount entitled to priority \$	The state of 205* of denocity toward	purchase lease or rental of property	
Specify the priority of the claim:  □ Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or	or services for personal, family, (§ 507(a)(7).		
(a)(1)(B).	Other - Specify applicable paragr	rnmental units - 11 U.S.C. § 507(a)(8). raph of 11 U.S.C. § 507(a)().	
business, whichever is earlier - 11 U.S.C. § 507(a)(4).	*Amounts are subject to adjustment of with respect to cases commenced of	n 4/1/07 and every 3 years thereafter	
☐ Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(5).  5. Total Amount of Claim at Time Case Filed: \$	103,138.05	103,138.05 (Total)	
(unsec	ne principal amount of the claim. Attach iten	nized statement of all interest or additional	
6. Credits: The amount of all payments on this claim has been credited this proof of claim. (except as noted on attachment)	and deducted for the purpose of making	THIS SPACE IS FOR COURT USE ONLY	
7. Supporting Documents: Attach copies of supporting documents, such as promissory notes, purchase  RECEIVED			
agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS: It the december of JUN 0 5 2006 are not available, explain. If the documents are voluminous, attach a summary.			
8. Date-Stamped Copy: To receive an acknowledgement of the filing	of your claim, enclose a stamped, self-	KURTZMAN CARSON	
Date Sign and print the name and title, if any of the country of power of attorney, if a country of power of attorney, if a country of power of attorney, if a country of a co	ncy Specialist		
Penalty for presenting fraudulent claim: Fine of up to \$500,000 or	imprisonine.	6 10 11 C C FF 152 and 3571	

## Proof of Claim for Internal Revenue Taxes



Department of the Treasury/Internal Revenue Service

In the Matter of:

DELPHI AUTOMOTIVE SYSTEMS SERVICES

LLC

5725 DELPHI DRIVE TROY, MI 48098 Form 10
Attachment

Docket Number

05-44632-RDD

Type of Bankruptcy Case

**CHAPTER 11** 

Date of Petition

10/08/2005

The United States has the right of setoff or counterclaim(s) in the amount of \$103,138.05. The identification of the right of setoff in this amount is based on available data and is not intended to waive or limit the right to setoff against this claim debts owed to this debtor by this or any other federal agency that have not been identified. All rights of setoff are preserved and will be asserted to the extent lawful.

FICA 12/31/04 & 9/30/05 FUTA 12/31/05 (PARTIAL)

Secured Claims (Notices of Federal tax lien filed under internal revenue laws before petition date)

Notice of Tax Lien Filed: Interest to Penalty to Date Tax Tax Taxpayer Office Location Date Petition Date Petition Date Tax Due Assessed Kind of Tax Period ID Number Right to setoff \$0.00 \$103,138.05 \$0.00 06/30/2005 10/03/2005 WT-FICA 38-3568834

**Total Amount of Secured Claims:** 

\$103,138.05



SOUTHERN NEW YORK BANKRUPTCY COURT U.S. BANKRUPTCY COURT ONE BOWLING GREEN NEW YORK, NY 10004-1408

Please Fold Here. Do not detach. Please be sure our address shows through the envelope window.

Internal Revenue Service INTERNAL REVENUE SERVICE 290 BROADWAY, 5TH FL NEW YORK, NY 10007

# Exhibit 7 **Claim No. 14154**

FORM B10 (Official Form 10)(10/05)  NAME OF THE PROPERTY OF TH	STRICT OF NEW YORK	PROOF OF CLAIM	
UNITED STATES BANKRUPICI COURT	Case Number		
Name of Debtor DELPHI AUTOMOTIVE SYSTEMS SERVICES	05-44632-RDD	Claim #14154	
NOTE: This form should not be used to make a claim for an administrative exp	ense arising after the commencement  operation to 11 U.S.C. § 503.	USBC SDNY hi Corporation, et al. 05-44481 (RDD)	
rentes! for payment or an administrative	Check box if you are aware that	J2-44461 (ICDD)	
Name of Creditor (The person or other entity to whom the debtor owes money or property):	anyone else has filed a proof of	Received	
Department of the Treasury - Internal Revenue Service	Attach copy of statement giving particulars.		
	Check box if you have never received any notices from the	AUG 0 9 2006	
Internal Revenue Service INTERNAL REVENUE SERVICE	bankruptcy court in this case.	Kurtzman Carson	
290 BROADWAY, 5TH FL	Check box if the address differs from the address on the envelope		
NEW YORK, NY 10007 Telephone number: (212) 436-1038 Creditor #:	sent to you by the court.	THIS SPACE IS FOR COURT USE ONLY	
Last four digits of account or other number by which creditor	Check here replaces a previous fithis claim a mends	ously filed claim, dated: 05/26/2006	
identifies debtor:	Devises honofits as define	d in 11 U.S.C. § 1114(a)	
1. Basis for Claim Goods sold	☐ Wages, salaries, and com Last four digits of your S	pensation (fill out below)	
Services performed	Unpaid compensation for	services performed	
☐ Money loaned ☐ Personal injury/wrongful death	from	to	
X Taxes  Other	(date)	(date)	
2. Date debt was incurred: see attachment	3. If court judgment, date obtain	ed:	
300 attachment	describe your claim and state the amount of	f the claim at the time case filed.	
4. Classification of Claim. Check the appropriate box or boxes that best See reverse side for important explanations.	Secured Claim.		
See reverse side in Chaire \$ [X] Check this box if your claim is secured by collateral (including a			
	Check this box if: a) there is no collateral or lien securing your  Brief Description of Collateral:		
claim, or b) your claim exceeds the value of the property securing it, or if c) none or only part of your claim is entitled to priority.	☐ Real Estate ☐ Motor Vehic		
Unsecured Priority Claim.	Value of Collateral: \$ <u>See</u> * All of debtor(s) right, title and inter	rest to property - 20 U.S.C 3 USZII	
Check this box if you have an unsecured claim, all or part of which i entitled to priority.	Amount of arrearage and other charg secured claim, if any: \$ 9,28	es at time case thed included in	
Amount entitled to priority \$			
Specify the priority of the claim:	or services for personal, family,	purchase, lease, or rental of property or household use - 11 U.S.C.	
☐ Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or	§ 507(a)(7).	nmental units - 11 U.S.C. § 507(a)(8).	
(a)(1)(B).  Wages, salaries, or commissions (up to \$10,000), *earned within 18 or commissions (up to \$10,000), the debtor's	Other - Specify applicable paragr	aph of 11 U.S.C. § 507(a)().	
days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(4).	*Amounts are subject to adjustment o with respect to cases commenced of	n A/1/07 and every 3 years thereafter	
☐ Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(5).		9,281.26	
5 Total Amount of Claim at Time Case Filed: \$	9,281.26 (secured)	priority) (Total)	
(unsec	e principal amount of the claim. Attach iter	nized statement of all interest of additional	
6. Credits: The amount of all payments on this claim has been credited	and deducted for the purpose of making	THIS SPACE IS FOR COURT USE ONLY	
this proof of claim. (except as noted on attachment)  7. Supporting Documents: Attach copies of supporting documents, such as promissory notes, purchase			
agreements, and evidence of perfection of hen. DO NOT SEND ORIGINAL DOCUMENTAL DOCUMENTA			
are not available, explain. If the documents are voluminous, attended 8. Date-Stamped Copy: To receive an acknowledgement of the filing	of your claim, enclose a stamped, self-		
		CLAIMS HE WAS INC. THREET	
Date Sign and print the name and title, if any, of the this claim (attach copy) of power of attorney, if a	uty).	USAG SARS	
07/27/2006 /s/ MARIA MALERIO, Insolve	ncy Specialist	'	

Penalty for presenting fraudulent olaim: Fine of up to \$500,000 or imprisonment i



## **Proof of Claim for** Internal Revenue Taxes



Department of the Treasury/Internal Revenue Service

In the Matter of:

DELPHI AUTOMOTIVE SYSTEMS SERVICES

LLC

5725 DELPHI DRIVE TROY, MI 48098

Form 10 Attachment

Docket Number

05-44632-RDD

Type of Bankruptcy Case

Chapter 11

Date of Petition

10/08/2005

Amendment No. 1 to Proof of Claim dated 05/26/2006

The United States has the right of setoff or counterclaim(s) in the amount of \$9,281.26. The identification of the right of setoff in this amount is based on available data and is not intended to waive or limit the right to setoff against this claim debts owed to this debtor by this or any other federal agency that have not been identified. All rights of setoff are preserved and will be asserted to the extent lawful.

Secured Claims (Notices of Federal tax lien filed under internal revenue laws before petition date) Notice of Tax Lien Filed: Penalty to Interest to Tax Date Tax Office Location Petition Date Taxpayer Petition Date Tax Due Assessed Kind of Tax Period ID Number Right to setoff \$0.00 \$9,281.26 \$0.00 06/30/2005 10/03/2005 WT-FICA 38-3568834

**Total Amount of Secured Claims:** 

\$9,281.26

Exhibit 8 Claim No. 15822 RM E10 (Official Form 10)(10/05) PROOF OF CLAIM DISTRICT OF NEW YORK SOUTHERN UNITED STATES BANKRUPTCY COURT Claim #15822 Case Number Name of Debtor DELPHI AUTOMOTIVE SYSTEMS SERVICES 05-44632-RDD USBC SDNY Delphi Corporation, et al. NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement 05-44481 (RDD) of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503. Check box if you are aware that Name of Creditor (The person or other entity to whom the debtor owes anyone else has filed a proof of money or property): claim relating to your claim. Department of the Treasury - Internal Revenue Service Attach copy of statement giving particulars. 1 2006 aug Name and address where notices should be sent: Check box if you have never received any notices from the Internal Revenue Service bankruptcy court in this case. W.S. EMPREOFET CONT. INTERNAL REVENUE SERVICE Check box if the address differs SO BOST OF BEN YE 290 BROADWAY, 5TH FL from the address on the envelope NEW YORK, NY 10007 THIS SPACE IS FOR COURT USE ONLY sent to you by the court. Telephone number: (212) 436-1038 Creditor #: Check here replaces a previously filed claim, dated: 05/26/2006 Last four digits of account or other number by which creditor if this claim X amends see attachment identifies debtor: Retiree benefits as defined in 11 U.S.C. § 1114(a) RECEIVED 1. Basis for Claim Wages, salaries, and compensation (fill out below) Last four digits of your SS #: Goods sold  $\Box$ 'AUG 18 2006' Unpaid compensation for services performed Services performed Money loaned Personal injury/wrongful death KURTZMAN CARSON from (date) (date) Taxes X Other 3. If court judgment, date obtained: 2. Date debt was incurred: see attachment 4. Classification of Claim. Check the appropriate box or boxes that best describe your claim and state the amount of the claim at the time case filed. See reverse side for important explanations. Secured Claim. 🛮 Check this box if your claim is secured by collateral (including a **Unsecured Nonpriority Claim \$** right of setoff). Check this box if: a) there is no collateral or lien securing your Brief Description of Collateral: claim, or b) your claim exceeds the value of the property securing it, Other <u>see below\*</u> or if c) none or only part of your claim is entitled to priority. 🛛 Real Estate 🖾 Motor Vehicle Value of Collateral: \$ see below\* Unsecured Priority Claim. \* All of debtor(s) right, title and interest to property - 26 U.S.C § 6321. ☐ Check this box if you have an unsecured claim, all or part of which is Amount of arrearage and other charges at time case filed included in entitled to priority. 9,281.26 secured claim, if any: \$\_\_ Amount entitled to priority \$ ☐ Up to \$2,225\* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. Specify the priority of the claim: § 507(a)(7). ☐ Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or ☐ Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8). (a)(1)(B). ☐ Wages, salaries, or commissions (up to \$10,000),\*earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(4). ☐ Other - Specify applicable paragraph of 11 U.S.C. § 507(a)( \*Amounts are subject to adjustment on 4/1/07 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment. ☐ Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(5) 9.281.26 9,281.26 5. Total Amount of Claim at Time Case Filed: \$ (priority) (Total) (secured) (unsecured) Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional 6. Credits: The amount of all payments on this claim has been credited and deducted for the purpose of making charges THIS SPACE IS FOR COURT USE ONLY (except as noted on attachment) this proof of claim. 7. Supporting Documents: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary. 8. Date-Stamped Copy: To receive an acknowledgement of the filing of your claim, enclose a stamped, selfaddressed envelope and copy of this proof of claim. Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of anomey, if any): Date 07/27/2006 ALERIO, Insolvency Specialis /s/ M/ Penalty for presenting fraudulent olaim: Fine of up

Gerschbein Decl. Exs. Page 47

### **Proof of Claim for Internal Revenue Taxes**



Department of the Treasury/Internal Revenue Service

DELPHI AUTOMOTIVE SYSTEMS SERVICES In the Matter of:

LLC

5725 DELPHI DRIVE TROY, MI 48098

Form 10 Attachment

Docket Number

05-44632-RDD

Type of Bankruptcy Case

Chapter 11

Date of Petition

10/08/2005

Amendment No. 1 to Proof of Claim dated 05/26/2006

The United States has the right of setoff or counterclaim(s) in the amount of \$9,281.26. The identification of the right of setoff in this amount is based on available data and is not intended to waive or limit the right to setoff against this claim debts owed to this debtor by this or any other federal agency that have not been identified. All rights of setoff are preserved and will be asserted to the extent lawful.

Secured Claims (Notices of Federal tax lien filed under internal revenue laws before petition date)

Notice of Tax Lien Filed: Interest to Penalty to Date Tax Tax Date Office Location Taxpayer Petition Date Petition Date Tax Due Period Assessed Kind of Tax **ID Number** Right to setoff \$0.00 \$9,281.26 \$0.00 10/03/2005 06/30/2005 38-3568834 WT-FICA

**Total Amount of Secured Claims:** 

\$9,281,26

Exhibit 9 Claim No. 7498

FORM B10 (Official Form 10)(10/05)		PROOF OF CLAIM		
UNITED STATES BANKRUPTCY COURT SOUTHERN I	DISTRICT OF NEW YORK	PROOF OF GLAIR		
Name of Debtor DELPHI CORPORATION Case Number 05-44481-RDD		Claim #07498 USBC SDNY		
NOTE: This form should not be used to make a claim for an administrative ex of the case. A "request" for payment of an administrative expense may be fib	co horsonn so ve avera	Delphi Corporation, et al. 05-44481 (RDD)		
Name of Creditor (The person or other entity to whom the debtor owes money or property):  Department of the Treasury - Internal Revenue Service	<ul> <li>Check box if you are aware that anyone else has filed a proof of claim relating to your claim.</li> <li>Attach copy of statement giving</li> </ul>	RECEIVED		
Name and address where notices should be sent:	particulars.  Check box if you have never	JUN 0 7 2006		
Internal Revenue Service INTERNAL REVENUE SERVICE	received any notices from the bankruptcy court in this case.	KURTZMAN CARSON		
290 BROADWAY, 5TH FL NEW YORK, NY 10007 Telephone number: (212) 436-1038 Creditor #:	Check box if the address differs from the address on the envelope sent to you by the court.	THIS SPACE IS FOR COURT USE ONLY		
Last four digits of account or other number by which creditor	Check here replaces a previo	usly filed claim, dated:		
identifies debtor: see attachment  1. Basis for Claim	Detiree henefits as defined	1 in 11 U.S.C. § 1114(a)		
<ul> <li>☐ Goods sold</li> <li>☐ Services performed</li> <li>☐ Money loaned</li> <li>☐ Personal injury/wrongful death</li> </ul>	Wages, salaries, and com Last four digits of your S Unpaid compensation for from	S#:services performed		
☐ Other	(date)			
2. Date debt was incurred: see attachment	3. If court judgment, date obtained	ed:		
Unsecured Nonpriority Claim \$ 10,427.75  ☐ Check this box if: a) there is no collateral or lien securing your claim, or b) your claim exceeds the value of the property securing it, or if c) none or only part of your claim is entitled to priority.  Unsecured Priority Claim.  ☑ Check this box if you have an unsecured claim, all or part of which entitled to priority.  Amount entitled to priority \$ 10,000.00  Specify the priority of the claim:  ☐ Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).  ☐ Wages, salaries, or commissions (up to \$10,000),*earned within 18 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(4).  ☐ Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(5).	secured claim, if any: \$ 11,41  Up to \$2,225*of deposits toward or services for personal, family, of 507(a)(7).  X Taxes or penalties owed to govern	Delow*  est to property - 26 U.S.C § 6321.  es at time case filed included in  1.00  purchase, lease, or rental of property or household use - 11 U.S.C.  aph of 11 U.S.C. § 507(a)(8).  aph of 11 U.S.C. § 507(a)  a 4/1/07 and every 3 years thereafter		
5. Total Amount of Claim at Time Case Filed: \$\frac{10,427.75}{\text{(unsecured)}} \frac{11,411.00}{\text{(secured)}} \frac{10,000.00}{\text{(priority)}} \frac{31,838.75}{\text{(Total)}}\$				
6. Credits: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim. (except as noted on attachment)				
7. Supporting Documents: Attach copies of supporting documents, su orders, invoices, itemized statements of running accounts, contracts, agreements, and evidence of perfection of lien. DO NOT SEND ORI are not available, explain. If the documents are voluminous, attach as a Date-Stamped Copy: To receive an acknowledgement of the filing addressed envelope and copy of this proof of claim.  Date  Sign and print the name and title filany, of the country of parameters of parameters of parameters of parameters. It is claim (attach applied of parameters of parameters of parameters of parameters of parameters of parameters.)	GINAL DOCUMENTS. If the documents summary.  of your claim, enclose a stamped, self- creditor or other person authorized to file my):	JUN 5 2006		

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or im



### **Proof of Claim for Internal Revenue Taxes**



Department of the Treasury/Internal Revenue Service

**DELPHI CORPORATION** In the Matter of: **5725 DELPHI DRIVE** 

TROY, MI 48098

Form 10 Attachment

**Docket Number** 

05-44481-RDD

Type of Bankruptcy Case

**CHAPTER 11** 

Date of Petition

10/08/2005

The United States has the right of setoff or counterclaim(s) in the amount of \$11,411.00. The identification of the right of setoff in this amount is based on available data and is not intended to waive or limit the right to setoff against this claim debts owed to this debtor by this or any other federal agency that have not been identified. All rights of setoff are preserved and will be asserted to the extent lawful.

Secured Claims (Notices of Federal tax lien filed under internal revenue laws before petition date)

Notice of Tax Lien Filed: Interest to Penalty to Date Tax Office Location Tax Taxpayer Date Petition Date Petition Date Tax Due Assessed Kind of Tax Period **ID Number** Right to setoff \$0.00 \$11,411.00 \$0.00 09/05/2005 06/30/2005 WT-FICA 38-3430473 \$11,411.00

**Total Amount of Secured Claims:** 

Unsecured Priority Claims under section 507(a)(8) of the Bankruptcy Code

Unsecured I	riority Claims unde	Section 307(a/to/ or ti			Interest to
Taxpayer	151 1 1 T-11	Tax Period	Date Tax Assessed	Tax Due	Petition Date
ID Number Kind of Tax	Tax Tenou		\$0.00	\$0.00	
38-3430473 38-3430473	WT-FICA FOREIGN	06/30/2005 12/31/2005	09/05/2005 1 UNASSESSED-NO RETURN	\$10,000.00 \$10,000.00	\$0.00
				000000000000000000000000000000000000000	

Total Amount of Unsecured Priority Claims:

\$10,000.00

#### **Unsecured General Claims**

Penalty to date of petition on unsecured priority claims (including interest thereon) . . . . . . . . . \$10,427.75

**Total Amount of Unsecured General Claims:** 

\$10,427.75

UNASSESSED TAX LIABILITIES(S) HAVE BEEN LISTED ON THIS CLAIM BECAUSE OUR RECORDS SHOW NO RETURN(S) FILED. WHEN THE DEBTOR(S) FILES THE RETURN OR PROVIDES OTHER INFORMATION AS REQUIRED BY LAW THE CLAIM WILL BE AMENDED.

Exhibit 10 Claim No. 12127 FORM B10 (Official Form 10)(10/05)

UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF HEAVY 1911.  Case Number	ORM B10 (Official Form 10)(10/05)	ISTRICT OF NEW YORK	PROOF OF CLAIM	
Align of Debots    Control	United States Bankruptcy Court SOUTHERN D			
NOTE This fam shade of the small or make a claim for an embasticative appear earling affects the commonweaper and the state of the claim of the claim of the claim and address where notices should be sent:    Contributions of the person or other entity to whom the deber over anoney or property):	Name of Debtor		AUC OF TOOC	
A Treaser of Personan of Leading Check box if you are aware that continued to properly continued to the Court Use One of Personal Injury Surrogal death of the Classification of Collateral:  Secrete Set for important explanations.  Check this box if you have navier services performed money or other than or only part of your claim.  A Classification of Claims.  Check this box if you have never received any notices from the claim relating to your claim. Alter digits of your SS #:  Check box if you have never received any notices from the received and the received any notices from the received any notices from the received and the received and the received any notices from the received and the received and the received any notices from the received and the received and the received any notices from the received and the received and the received any notices from the received and the received and the received any notices from the received and the received and the received any notices from the received and the recei	L	gense arising after the commencement	AUG U 5 ZUUB	
Department of the Treasury - Internal Revenue Service  Name and address where notices should be sent: Internal Revenue Service INTERNAL Revenue Service BYTERNAL Revenue Service 120 BROADWAY, 5TH FL NEW YORK, NY 10007 Telephone number: (212) 438-1038 Creditor #: Let four digits of account or other number by which creditor identifies debtor: See attachment  Basis for Claim Godes and No copy to return Personal highly-wrongful death Takes Object of the address affired in 11 U.S.C. \$ 1114(a) Wages, salaries, and compensation (fill out below) Last four digits of your SSP. Last four digits of your SSP. Takes Object of the salaries of the	of the case. A 'request' for payment of an administrative expense may or me		Kurtzman Carson	
Name and address where notices should be sent: Internal Revenue Service INTERNAL REVNUE SERVICE 290 BROADWAY, 571 HF. INTERNAL REVNUE SERVICE 290 BROADWAY, 571 HF. INTERNAL REVNUE SERVICE 390 BROADWAY, 571	Name of Creditor (The person or other entity to whom the debtor owes	anyone else has filed a proof of	227	
Name and address where notices should be sent: Internal Revenue Service INTERNAL REVNUE SERVICE 290 BROADWAY, 571 HF. INTERNAL REVNUE SERVICE 290 BROADWAY, 571 HF. INTERNAL REVNUE SERVICE 390 BROADWAY, 571	Department of the Treasury - Internal Revenue Service	claim relating to your claim.  Attach copy of statement giving	Claim#127hY	
Date Object   Date of Date		particulars.	USD orporation (RDD)	
Date Object   Date of Date		received any notices from the	05.05.2	
Telephone number (2) 24 343-1038   Creditor #:   Trees Space is row Court User Only Trees Processing Space	INTERNAL REVENUE SERVICE			
Telephone number: [212] 438-1038 Creditor #:   Sent to you by the countries debtor:   Check here   replaces   previously filed claim, dated: 08/01/2006   Check his box sold   Mo solv to retern   Mo solv to solv to retern   Mo solv to retern   M	NEW YORK, NY 10007	from the address on the envelope	True Space is FOR COURT USE ONLY	
Last four digits of account of other inhibits of see attachment see a staychment see a staych see stamped envelope services performed Money loaned Money lo	Telephone number: (212) 436-1038 Creditor #:			
Basis for Claim	Last four digits of account or other number by which creditor	if this claim 🛛 amends		
Goods Sold Solf Solf Solf Solf Solf Solf Solf Solf	Action 1	☐ Retiree benefits as define	d in 11 U.S.C. § 1114(a)	
Services performed   No copy to return   Glain   Check the spropriate box or boxes that best describe your claim and state the amount of the claim at the time case filed.    A. Classification of Claim. Check the appropriate box or boxes that best describe your claim and state the amount of the claim at the time case filed.   See reverse side for important explanations.   Secured Claim.   Secured Claim.   Secured Claim   Secu		Last four digits of your S	S#:	
Personal injury/wrongful death Taxes Other Taxes Other  2. Date debt was incurred: See ettachment  4. Classification of Claim. Check the appropriate box or boxes that best describe your claim and state the amount of the claim at the time case filed. See reverse side for important explanations. Unsecured Nonpriority Claim \$ 11,688.75 Check this box if a) there is no collateral or lien securing your claim, or b) your claim exceeds the value of the property securing it, or if c) none or only part of your claim in an exceeds the value of the property securing it, or if c) none or only part of your takin is entitled to priority.  Unsecured Priority Claim.  2. Check this box if you have an unsecured claim, all or part of which is entitled to priority.  Amount entitled to priority \$ 0.00 Specify the priority of the claim:  Domestic support obligations under 11 U.S.C. \$ 507(a)(1)(A) or (a)(1)(B).  Wages, salaries, or commissions (up to \$10,000).**Carreed within 180 days before filing of the bankruptey petition or cressation of the debtor's business, whichever is earlier -11 U.S.C. \$ 507(a)(4).  Contributions to an employee benefit plan -11 U.S.C. \$ \$07(a)(4).  Contributions to an employee benefit plan -11 U.S.C. \$ \$07(a)(5).  Total Amount of Claim at Time Case Filed: \$ 11,888.75 (unsecured) (unsecured	Services performed No copy to return	Unpaid compensation for	services performed	
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3. If court judgment, date obtained:  4. Classification of Claim. Check the appropriate box or boxes that best describe your claim and state the amount of the claim at the time case filed.  See revers side for important explanations.  Unsecured Nonpriority Claim \$ 11,888.75  □ Check this box if a) there is no collateral or lien security your claim, or b) your claim seeds the value of the property securing it, or if c) none or only part of your claim is entitled to priority.  Unsecured Priority Claim.  ☑ Check this box if you have an unsecured claim, all or part of which is entitled to priority.  Amount entitled to priority \$ 0.00  Specify the priority of the claim:  □ Domestic support obligations under 11 U.S.C. \$ 507(a)(1)(A) or (a)(1)(B).  □ Wages, salaries, or commissions (up to \$10,000), *carried within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. \$ 507(a)(4).  □ Contributions to an employee benefit plan - 11 U.S.C. \$ 507(a)(5).  5. Total Amount of Claim at Time Case Filed: \$ 11,888.75	☐ Taxes	(date)	(uait)	
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Amount entitled to priority.  Amount entitled to priority \$  Specify the priority of the claim:  Domestic support obligations under 11 U.S.C. \$ 507(a)(1)(A) or (a)(1)(B).  Wages, salaries, or commissions (up to \$10,000), *earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. \$ 507(a)(4).  Contributions to an employee benefit plan - 11 U.S.C. \$ 507(a)(5).  Total Amount of Claim at Time Case Filed:  11,688.75  Cunsecured)  Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach timized statement of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.  Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach timized statement of all interest or additional charges.  Check this proof of claim.  (except as noted on attachment)  Supporting Documents: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.  Supporting Documents: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.  Sign and print the name and title, if any, of the freditor or other person authorized to file this claim (attach of the purpose of authors). Specialist  Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up	Unsecured Priority Claim.	: I * A !! - A - A - b - a - lab - siabt - titla and inte	rest to property - 25 U.S.C 9 0321.	
Amount entitled to priority \$ 0.00  Specify the priority of the claim:  Domestic support obligations under 11 U.S.C. \$ 507(a)(1)(A) or (a)(1)(B).  Wages, salaries, or commissions (up to \$10,000), *earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. \$ 507(a)(4).  Contributions to an employee benefit plan - 11 U.S.C. \$ 507(a)(5).  Total Amount of Claim at Time Case Filed:  (unsecured)  Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional this proof of claim.  (except as noted on attachment)  Supporting Documents: Attach copies of supporting documents, such as promissory notes, purchase orders, involces, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. Do Not SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.  Supporting Documents: Attach copies of supporting documents, such as promissory notes, purchase orders, involces, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. Do Not SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.  Supporting Documents: Attach copies of supporting documents, such as promissory notes, purchase orders, involces, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. Do Not SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.  Sign and print the name and title, if any, of the dreditor or other person authorized to file this claim (attach-cryptal gover of attorpers) in proper of attorpers and the proper of attorpers and the proper of attor	entitled to priority.	Amount of arrearage and other charge	ges at time case filed included in	
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6. Credits: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim. (except as noted on attachment)  7. Supporting Documents: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.  8. Date-Stamped Copy: To receive an acknowledgement of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.  Date  Sign and print the name and title, if any, of the dreditor or other person authorized to file this claim (attach copy of power of attornes), if easy):  S/MARIAL ORIENIO Insolvency Specialist  Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up	(unse	cured) (secured)  the principal amount of the claim. Attach iter	nized statement of all interest or additional	
this proof of claim. (except as noted on attachment)  7. Supporting Documents: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.  8. Date-Stamped Copy: To receive an acknowledgement of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.  Date  O7/21/2006  Sign and print the name and title, if any, of the dreditor or other person authorized to file this claim (attach copy of power of attorney, if pay):  Sign and print the name and title, if any, of the dreditor or other person authorized to file this claim (attach copy of power of attorney, if pay):  Sign and print the name and title, if any, of the dreditor or other person authorized to file this claim (attach copy of power of attorney, if pay):  Sign and print the name and title, if any, of the dreditor or other person authorized to file this claim (attach copy of power of attorney, if pay):  Sign and print the name and title, if any, of the dreditor or other person authorized to file this claim (attach copy of power of attorney, if pay):  Sign and print the name and title, if any of the dreditor or other person authorized to file this claim (attach copy of power of attorney, if pay):  Sign and print the name and copy of this proof of claim.  Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up	charges.	d and deducted for the purpose of making	THIS SPACE IS FOR COURT USE ONLY	
7. Supporting Documents: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.  8. Date-Stamped Copy: To receive an acknowledgement of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.  Date  Sign and print the name and title, if any, of the dreditor or other person authorized to file this claim (attach copy of power of attorness, if any):  Sign and print the name and title, if any, of the dreditor or other person authorized to file this claim (attach copy of power of attorness, if any):  Sign and print the name and title, if any, of the dreditor or other person authorized to file this claim (attach copy of power of attorness, if any):  Sign and print the name and title, if any, of the dreditor or other person authorized to file this claim (attach copy of power of attorness, if any):  Sign and print the name and title, if any, of the dreditor or other person authorized to file this claim (attach copy of power of attorness, if any):  Sign and print the name and title, if any of the dreditor or other person authorized to file this claim (attach copy of power of attorness, if any):  Sign and print the name and title, if any of the dreditor or other person authorized to file this claim.  Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up	this proof of claim. (except as noted on attachment)			
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are not available, explain. If the documents are voluminous, attach a summary.  8. Date-Stamped Copy: To receive an acknowledgement of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.  Date  O7/21/2006  Sign and print the name and title, if any, of the greditor or other person authorized to file this claim (attach copy of power of attorney, if any):  Sign and print the name and title, if any, of the greditor or other person authorized to file this claim (attach copy of power of attorney, if any):  Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up	orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, second			
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Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for u	Date Sign and print the name and thie, it any, or the this claim (attach copy of power of attorney, if	(A): (A)		
#: B   ; B	IS NATION VALENTO TISOTO	ALIOT ODOGIANA		
	Penalty for presenting fraudulent claim: Fine of up to \$500,000 or	imprisonment for u		
		]		

Gerschbein Decl. Exs. Page 53

#### Proof of Claim for Internal Revenue Taxes



Form 10 Attachment

Docket Number

05-44481-RDD

Type of Bankruptcy Case

Chapter 11

Date of Petition

10/08/2005

Department of the Treasury/Internal Revenue Service

In the Matter of:

DELPHI CORPORATION 5725 DELPHI DRIVE TROY, MI 48098

Amendment No. 1 to Proof of Claim dated 06/01/2006

The United States has the right of setoff or counterclaim(s) in the amount of \$10,150.00. The identification of the right of setoff in this amount is based on available data and is not intended to waive or limit the right to setoff against this claim debts owed to this debtor by this or any other federal agency that have not been identified. All rights of setoff are preserved and will be asserted to the extent lawful.

Secured Claims (Notices of Federal tax lien filed under internal revenue laws before petition date)

Taxpayer
ID Number Kind of Tax

WT-FICA

Tax Period

06/30/2005

Date Tax Assessed 09/05/2005

Tax Due

\$0.00

Penalty to Petition Date

\$10,150.00

Interest to Petition Date

\$0.00

Notice of Tax Lien Filed: Date Office Location

Right to setoff

**Total Amount of Secured Claims:** 

\$10,150.00

Unsecured Priority Claims under section 507(a)(8) of the Bankruptcy Code

Taxpayer ID Number

38-3430473

38-3430473

Kind of Tax

Tax Period 06/30/2005 Date Tax Assessed

09/05/2005

Interest to Petition Date

\*\*Tax Due \$0.00

\$0.00

**Total Amount of Unsecured Priority Claims:** 

\$0.00

**Unsecured General Claims** 

Penalty to date of petition on unsecured priority claims (including interest thereon) . . . . . . . . . \$11,688.75

**Total Amount of Unsecured General Claims:** 

\$11,688.75



ROBERT D. DRAIN U.S. BANKRUPTCY COURT ONE BOWLING GREEN NEW YORK, NY 10004-1408

Please Fold Here. Do not detach. Please be sure our address shows through the envelope window.

Internal Revenue Service INTERNAL REVENUE SERVICE 290 BROADWAY, 5TH FL NEW YORK, NY 10007

## Exhibit 11 Claim No. 14259

FORM B10 (Official Form 10)(10/05) PROOF OF CLAIM DISTRICT OF NEW YORK SOUTHERN United States Bankruptcy Court Case Number Name of Debtor 05-44481-RDD DELPHI CORPORATION NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement Claim #14259 of the case. A "request" for payment of an administrative expense may be flied pursuant to 11 U.S.C. 3 503. USBC SDNY Delphi Corporation, et al. Name of Creditor (The person or other entity to whom the debtor owes 05-44481 (RDD) Check box if you are aware that anyone else has filed a proof of money or property): claim relating to your claim. Department of the Treasury - Internal Revenue Service Attach copy of statement giving Received particulars. Name and address where notices should be sent: Check box if you have never AUG 0 9 2006 Internal Revenue Service received any notices from the INTERNAL REVENUE SERVICE bankruptcy court in this case. 290 BROADWAY, 5TH FL Check box if the address differs Kurtzman Carson NEW YORK, NY 10007 from the address on the envelope THIS SPACE IS FOR COURT USE ONLY Telephone number: (212) 436-1038 Creditor #: sent to you by the court. replaces Last four digits of account or other number by which creditor Check here a previously filed claim, dated: 06/01/2006 see attachment if this claim X amends identifies debtor: Retiree benefits as defined in 11 U.S.C. § 1114(a) 1. Basis for Claim Wages, salaries, and compensation (fill out below) Goods sold П Last four digits of your SS #: Services performed  $\Box$ Unpaid compensation for services performed Money loaned Personal injury/wrongful death from  $\Box$ Taxes (date) X (date) Other 3. If court judgment, date obtained: 2. Date debt was incurred: see attachment 4. Classification of Claim. Check the appropriate box or boxes that best describe your claim and state the amount of the claim at the time case filed. See reverse side for important explanations. 🛮 Check this box if your claim is secured by collateral (including a Unsecured Nonpriority Claim \$ right of setoff). ☐ Check this box if: a) there is no collateral or lien securing your Brief Description of Collateral: claim, or b) your claim exceeds the value of the property securing it, or if c) none or only part of your claim is entitled to priority. ☑ Other see below\* Unsecured Priority Claim. see below\* Value of Collateral: \$\_\_ \* All of debtor(s) right, title and interest to property - 26 U.S.C § 6321. IX Check this box if you have an unsecured claim, all or part of which is Amount of arrearage and other charges at time case filed included in entitled to priority. 10,150.00 secured claim, if any: \$ Amount entitled to priority \$\_ 0.00 ☐ Up to \$2,225\* of deposits toward purchase, lease, or rental of property Specify the priority of the claim: or services for personal, family, or household use - 11 U.S.C. § 507(a)(7). ☐ Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or ☑ Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8). (a)(1)(B). ☐ Wages, salaries, or commissions (up to \$10,000),\*earned within 180 ☐ Other - Specify applicable paragraph of 11 U.S.C. § 507(a)( days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(4). \*Amounts are subject to adjustment on 4/1/07 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment. ☐ Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(5). 21,838.75 5. Total Amount of Claim at Time Case Filed: \$ 11,688.75 10,150.00 (Total) (priority) (unsecured) (secured) 🔀 Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional 6. Credits: The amount of all payments on this claim has been credited and deducted for the purpose of making THIS SPACE IS FOR COURT USE ONLY this proof of claim. (except as noted on attachment) 7. Supporting Documents: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary. 8. Date-Stamped Copy: To receive an acknowledgement of the filing of your claim, enclose a stamped, self-CLAIMS PROCESSING SENTE addressed envelope and copy of this proof of claim. บริธับ Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any): Date

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for

power of attorney, if any):

MARIAU WALERIO Insolvency Specialist



07/21/2006

### **Proof of Claim for Internal Revenue Taxes**

Department of the Treasury/Internal Revenue Service



Form 10 Attachment

**Docket Number** 

05-44481-RDD

Type of Bankruptcy Case

Chapter 11

Date of Petition

10/08/2005

In the Matter of:

**DELPHI CORPORATION** 5725 DELPHI DRIVE TROY, MI 48098

Amendment No. 1 to Proof of Claim dated 06/01/2006

The United States has the right of setoff or counterclaim(s) in the amount of \$10,150.00. The identification of the right of setoff in this amount is based on available data and is not intended to waive or limit the right to setoff against this claim debts owed to this debtor by this or any other federal agency that have not been identified. All rights of setoff are preserved and will be asserted to the extent lawful.

Excise TAX

Secured Claims (Notices of Federal tax lien filed under internal revenue laws before petition date)

Taxpayer **ID Number** 38-3430473

Kind of Tax

WT-FICA

Tax Period 06/30/2005

Date Tax Assessed 09/05/2005

Tax Due \$0.00

Penalty to Petition Date \$10,150.00

Interest to Petition Date \$0.00 Notice of Tax Lien Filed: Office Location

Right to setoff

**Total Amount of Secured Claims:** 

\$10,150.00

Unsecured Priority Claims under section 507(a)(8) of the Bankruptcy Code

Taxpayer **ID Number** 

Kind of Tax

Tax Period

Date Tax Assessed

Tax Due

Interest to Petition Date

38-3430473

WT-FICA

06/30/2005

09/05/2005

\$0.00

\$0,00

**Total Amount of Unsecured Priority Claims:** 

\$0.00

**Unsecured General Claims** 

Penalty to date of petition on unsecured priority claims (including interest thereon) . . . . . . . . \$11,688.75

**Total Amount of Unsecured General Claims:** 

\$11,688.75

Exhibit 12 Claim No. 2445

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FORM B10 (Official Form 10) (Rev. 4/01)			
United States Bankruptcy Court Southern District	t of New York	PROOF OF CLAIM	
Name of Debtor DELPHI CORPORATION	Case Number 05-44481	Claim #02445 USBC SDNY	
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.		Delphi Corporation, et al. 05-44481 (RDD)	
Name of Creditor (The person or other entity to whom the debtor owes money or property): U.S. SECURITIES AND EXCHANGE COMMISSION	Check box if you are aware that anyone else has filed a proof of claim relating to your claim.     Attach copy of statement giving particulars.	RECEIVED	
Name and address where notices should be sent:  3 WORLD FINANCIAL CENTER NEW YORK, NEW YORK 10281 ATT'N: BANKRUPTCY GROUP	Check box if you have never received any notices from the bankruptcy court in this case.	APR 03 2006	
Telephone number: (212) 336-0095	☐ Check box if the address differs from the address on the anvelope sent to you by the court.	KURTZMAN CARSON This space is for Court Use Only	
Account or other number by which creditor identifies debtor:	Check here Greplaces	viously filed claim, dated:	
1. Basis for Claim Goods sold Services performed Money loaned Personal injury/wrongful death Taxes Other: Disgorgement and civil penalties arising from possible violations of federal securities laws (see attachment A)	☐ Retiree benefits as define ☐ Wages, salaries, and com Your SS#:  Unpaid compensation for from(date)	npensation (Fill out below) services performed	
2. Date debt was incurred: Various.	3. If court judgment, date	obtained:	
4. Total Amount of Claim at Time Case Filed:  If all or part of your daim is secured or entitled to priority, also complete Item 5 or 6 below.  Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.			
5. Secured Claim. Check this box if your claim is secured by collateral (including a right of setoff).  Brief Description of Collateral: Real Estate U Motor Vehicle Other  Value of Collateral:  Amount of arrearage and other charges at time case filed included in secured claim, if any \$	6. Unsecured Priority Claim.  Check this box if you have an unsecured priority claim Amount entitled to priority \$ Specify the priority of the claim:  Wages, salaries, or commissions (up to \$4,650),* earned within 90 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(3)  Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(4).  Up to \$2,100* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(6)  Alimony, maintenance, or support owed to a spouse, former spouse, or child - 11 U.S.C. § 507(a)(7).  Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8).  Other Specify applicable paragraph of 11 U.S.C. § 507(a).  *Amounts are subject to adjustment on 4/1/04 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment		
<ul> <li>7. CREDITS: The amount of all payments on this claim has the purpose of making this proof of claim.</li> <li>8. Supporting Documents: Attach copies of supporting documents, purchase orders, invoices, itemized statements of runcourt judgments, mortgages, security agreements, and evicate DO NOT SEND ORIGINAL DOCUMENTS. If the document explain. If the documents are voluminous, attach a summation of the documents of the creditors of the creditors.</li> <li>9. Date-Stamped Copy: To receive an acknowledgment of the creditors.</li> <li>Date 3-16-06</li> <li>Sign and print the name and title, if any, of the creditors of the creditors.</li> </ul>	uments, such as promissory nning accounts, contracts, dence of perfection of lien. is are not available, ry. he filling of your claim, his proof of claim. other person authorized to this claim	This Space is for Court Use Only  THE Space is for Court Use Only	
(attach copy of power of attorney, it any): Neal Jacobson, Senior Trial Counsel, U.S. Securities & Exchange Commission  Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both, 18 U.S.C §§ 152 and 3571			
Penalty for presenting fraudulent claim: Fine of up to \$500,000 or supplied in the day to 9 to 9 to 9 to 9 to 9			

#### Attachment "A"

This claim is an undetermined claim for penalties, disgorgement, and prejudgment interest arising from possible violations of the federal securities laws. The Securities and Exchange Commission ("SEC") has been investigating pre-bankruptcy activities and transactions involving Delphi Corporation, and may file a civil action against the debtor in the appropriate court, where its claim would be determined in a final amount.

The SEC reserves the right to amend and supplement this claim as appropriate under the circumstances.

Gerschbein Decl. Exs. Page 61